



STATE OF NEVADA
COMMISSION ON ETHICS
<http://ethics.nv.gov>

MINUTES
of the meeting of the
COMMISSION ON ETHICS
July 9, 2009

These minutes constitute a summary of the above proceedings of the Nevada Commission on Ethics. A certified court reporter transcribed the meeting and a transcript is available for purchase from Sunshine Reporters.

The Commission on Ethics held a public meeting on Thursday, July 9, 2009, beginning at 9:00 a.m. at the following locations via video-conference:

Nevada Legislative Building
401 South Carson Street, Room 3143
Carson City, Nevada

Legislative Counsel Bureau
555 E. Washington Avenue, Room 4401
Las Vegas, Nevada

Call to Order, Roll Call.

In Las Vegas, Chair Mark Hutchison called the meeting to order and called the roll at 9:00 a.m., Thursday, May 7, 2009. Chair Mark Hutchison, John T. Moran, III and Gregory Gale were present in Las Vegas via video. Also present in Las Vegas were Tami DeVries, Legal Research Analyst, and Mike Vavra, Investigator.

Present in Carson City were Commissioners George M. Keele, Paul H. Lamboley, John W. Marvel, and James M. Shaw (connected by telephone for agenda item 1). Also present in Carson City were Adriana G. Fralick, Esq., General Counsel, and Michelle A. Ené, Executive Assistant.

Members of the public were asked to sign in, and the sign-in sheets are attached to the original minutes as Exhibit A.

1. Open session for discussion and possible action to elect Chair and Vice Chair of the Nevada Commission on Ethics for fiscal year 2010, pursuant to NRS 281A.210 and NAC 281A.150.

Chair Hutchison nominated Keele to the position of Chair. Marvel seconded the motion. Keele abstained from voting on the matter. The motion passed unanimously, with Keele

abstaining. Keele accepted the nomination and the meeting was turned over to Chair Keele to preside.

Chair Keele nominated Moran to the position of Vice Chair. Marvel seconded the motion. Moran abstained from voting on the matter. The motion passed unanimously, with Moran abstaining. Moran accepted the nomination.

2. Closed session pursuant to NRS 281A.440(13) to hear testimony, receive evidence, deliberate and render an opinion on Advisory Opinion Request No. 09-25A.

This matter is confidential and was held in closed session.

3. Closed session pursuant to NRS 281A.440(13) to hear testimony, receive evidence, deliberate and render an opinion on Advisory Opinion Request No. 09-48A.

This matter is confidential and was held in closed session.

4. Closed session pursuant to NRS 281A.440(13) to receive information or evidence and deliberate on the propriety of the conduct of a public officer, pursuant to NRS 281A.440.

This matter is exempt from the open meeting law and was held in closed session.

5. Open session to take action on a proposed stipulation in Request for Opinion No. 09-22C regarding the conduct of Mary Orr, Member, Humboldt General Hospital District.

Chair Keele and Lamboley were precluded from participating in this matter since they served on the panel; they were both excused from participation.

Vice Chair Moran presided over this matter. Mary Orr and her counsel, Kent Maher, were present telephonically. The terms of the stipulation were discussed in closed session under agenda item 4 with the Commission.

Hutchison moved to approve the stipulation as presented. Marvel seconded the motion. The motion passed unanimously.

6. Open session for discussion and possible action regarding vacancy in the Executive Director position.

Chair Keele disclosed that he had a dear friend that he has known for many years that he has recommended apply for the position and based upon that he will abstain from participating in this matter. Vice Chair Moran presided over this matter.

Lamboley initiated discussion regarding the open period for accepting resumes.

Public member, and former commissioner, Caren Jenkins addressed the Commission regarding her interest in applying for the position and weighed in on the length of time for accepting resumes.

Lengthy discussion ensued regarding the length of time for accepting resumes, the process of filling the vacancy and appointing a subcommittee to review the applications and narrow the interview pool.

Moran moved to appoint Hutchison and Lamboley as the subcommittee members. Marvel seconded the motion. The motion passed unanimously, with Keele abstaining.

Moran moved to extend the closing date for accepting resumes from July 17 to July 24. Hutchison seconded the motion. The motion passed unanimously, with Keele abstaining.

Tami DeVries addressed the Commission regarding her proposal to act as the interim executive director. After further discussion it was determined that Ms. Fralick could handle those duties during the interim, since the interim will not be a very long period.

7. Open session for discussion on Executive Director's Annual Report, pursuant to NAC 281A.180(2).

The Commission reviewed the Executive Director's Annual Report for Fiscal Year 2009, as prepared by Patricia D. Cafferata, Esq., former Executive Director. Chair Keele pointed out the goals noted in the report as follows:

- (1) Draft new regulation to accompany the changes to the Nevada Revised Statutes;
- (2) Update all forms, materials and website to reflect the changes to the NRS;
- (3) Develop online ethics training program; and
- (4) Create a desk manual for all positions in the agency.

8. Open session for discussion and possible action on Commission's priorities on pending complaints and opinions, forms and website, Ethics Manual, Outreach plan, scheduled ethics trainings and other related matters.

This matter was postponed to the August 13, 2009 meeting.

9. Open session for discussion and possible action regarding issues arising from the 2009 Legislative Session including legislative bills, final Commission budget, impact and implementation of legislative changes.

Chair Keele asked that Ms. Fralick point out the highlights from the session. Ms. Fralick explained that the Commission no longer has jurisdiction over legislators when they are acting within their core legislative activities, but that we retain jurisdiction over their activities when they are not conducting core legislative activities.

The "cooling off" statute (NRS 281.236), which remained codified under chapter 281 of NRS in the 2007 Session, was moved into chapter 281A of NRS this Session. Additionally under that section, the burden was shifted from the employer to the public officer or employee to comply with this provision of law since the Commission did not have any jurisdiction over the employers.

The willful definition was changed from a standard of "knew or reasonably should have known" to "intentionally and knowingly". Discussion ensued with Keele explaining his

participation in this legislative change. The Commission emphasized the importance of seeking better compliance from public officers in filing the acknowledgement forms, and how those forms will need to be part of every investigation.

Ms. Fralick wrapped up the discussion by pointing out that the statute was cleaned up a bit, with changes to prohibitions on lobbying for commissioners, adding a statute of limitations of two years on ethics complaints, and the addition of 10 days to our investigative time and 30 days between panel and hearing.

The final major change took place in NRS 281A.420 regarding voting, disclosing and abstention. This statute was re-codified, so the numbering will be changed. Additionally, the legislature added language stating that abstention should only be done in "clear cases" where conflicts exist.

10. Open session for Commissioner Comments. Commissioners may make comments on future agenda items, upcoming meeting dates and meeting procedures.

Lamboleley thanked Hutchison for his contributions and leadership during his tenure as Chair of the Commission.

11. Public Comments.

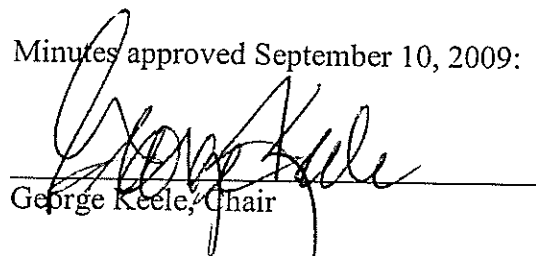
No public comment was made.

Keele adjourned the meeting at 3:23 p.m.

Minutes transcribed by:


Tami DeVries, Legal Analyst

Minutes approved September 10, 2009:


George Keele, Chair